

# **BANNER ELK TOWN COUNCIL**

**November 14, 2016  
MINUTES**

The Banner Elk Town Council met Monday, November 14, 2016 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Brenda Lyerly, Charlie VonCanon, Allen Bolick, Mike Dunn, Robert Tufts and David Lecka.

Staff present: Town Manager Rick Owen, Cheryl Buchanan, and Attorney Four Eggers.

## **Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of November 2016 to order.

## **Pledge of Allegiance**

Mayor Lyerly led those in attendance with the Pledge of Allegiance.

## **Invocation**

Council Member VonCanon opened the meeting with prayer.

## **Approval of the Minutes**

Mayor Lyerly asked if there was a motion to approve or amend the October 10, 2016 Town Council Minutes. Council Member Tufts motioned to approve the October Town Council Minutes as written. Council Member Dunn seconded the motion. All were in favor. No one opposed.

## **Approval of the Stated Agenda**

Mayor Lyerly asked for a motion to approve or amend the November 2016 agenda. Council Member VonCanon motioned to approve the November 2016 agenda as stated. Council Member Tufts seconded the motion. All were in favor. No one opposed.

## **Public Comments**

Mayor Lyerly called upon Ted Silver. Mr. Silver reported that as chairman of the Bicycle Ped Committee, he is working with the Avery County School Superintendent and the Board in applying for a grant with the N.C. DOT for obtaining 100 bicycle helmets for low income children.

Mr. Silver also thanked Council and the Town of Banner Elk for including the public bicycle repair station in the Corner on Main Project. He has raised approximately \$200 to go towards the cost. Mayor Lyerly reported that the Banner Elk Elementary School is planning a bicycle event and the one drawback is that bicycles are not available for all the children. She asked Mr. Silver if he had any resources to obtain bicycles for this event. Mr. Silver stated that there are people working on it.

### **Call for Public Hearing, Zoning Ordinance Amendment, Section 307**

Ms. Buchanan reported that in the past, the Town's position has been that if a "use" was not listed in the Table of Uses in the Zoning Ordinances, it was not permitted. However, under the current ruling of the Supreme Court, a blanket prohibition on activities in a zoning ordinance is not appropriate. Ms. Buchanan noted that because the Town cannot conceivably list every land use that may exist, she and Attorney Eggers sat down and worked on rewording and updating the description of Section 307 – Intent. She asked Council to refer to the proposed new language typed in red and asked Council to call for a public hearing at December's meeting. Council Member Bolick motioned to call for a public hearing at Council's December meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

### **Call for Public Hearing, Zoning Ordinance Amendment, Section 502.1**

Ms. Buchanan reported that this amendment has to do with how the Town calculates the height of a building. In the past, it was calculated by the average grade of the slope of the entire property. She noted that the Planning Board modified the ordinance in 2015 to measure the largest square or rectangle within a footprint, find the average grade and measuring 35 feet up from that point; the point where the building would sit. Ms. Buchanan stated that the Planning Board has found that the ordinance doesn't take into consideration areas that are located in the floodplain. The point used for calculating height would be from the finished grade and not the average natural grade, depending on where the base flood elevation falls. Ms. Buchanan recommends that Council call for a public hearing to amend this section of the zoning ordinance to cover those areas located in floodplain areas. Council Member Dunn motioned to call for a public hearing at December's meeting. Council Member Lecka seconded the motion. Council Member Tufts stated that the recommended text for this section was not included in the packet. Mr. Owen apologized for it not being included and will forward it to all Council Members. Mayor Lyerly asked for a vote. All were in favor. No one opposed.

### **Annexation Request**

Mr. Owen reported that the Town received an annexation request for two parcels located on Highway 184. The request comes from Petti, Inc. on behalf of the developer. He noted that the property sits on 5.202 acres and is located between Bear Run and High Country Square. Mr. Owen reported that the developer has been working with Town staff on a proposal for a hotel, making sure they meet all the zoning requirements of the Town. The developer is requesting annexation in order to receive water and sewer services. He stated that they are petitioning Council to approve the annexation contingent upon receiving a zoning permit for the development. Basically, if the developer gets to the Planning Board stage and the hotel approved, the property would be annexed as a part of the permit issuance. Mr. Owen noted that it is a voluntary annexation and per Attorney Eggers it is legally permitted. He noted that the Town has received deeds and surveys from the owners. Mr. Owen is requesting Council to begin the annexation process by directing the Clerk to certify the petition and call for a public hearing at the next Council meeting. Council Member Bolick asked if the Town is required to notify adjacent property of the annexation. Attorney Eggers stated not on annexation but if they needed to apply for rezoning there is a procedure where the adjacent property owners will be informed and if a public hearing is called the adjacent property owners will be made aware of the request. The current proposal does not require rezoning. Council Member Tufts questioned the process, the submission of plans and when it becomes final. Attorney Eggers recommended Council to have Mr. Owen certify the petition, call for a public hearing, then take action on approving the annexation upon their issuances and permits so they can have this all lined up before it is

finalized and added officially to Town records. This way it won't drag out and become a two year process for example. Discussions were exchanged regarding setbacks, traffic impact and the DOT, the number of rooms and water and sewer impact, Council requesting preliminary plans from the developer. Mayor Lyerly asked for a motion. Council Member Lecka motioned to request the clerk to certify the petition and call for a public hearing at next month's meeting. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

### **Request Extension on Sandwich Board Sign Ordinance**

Cheryl Buchanan reported that the temporary Sandwich Board Sign Ordinance expired mid October. The Planning Board would like to extend the ordinance for an additional six months. There were discussions regarding the use of sandwich boards during winter months and if they would create different issues related to the weather and snow removal. It was agreed to extend the use of sandwich board signs. This would allow the Town to determine how sandwich board signs were utilized throughout an entire year which would allow the Town to determine if their use would become permanent. Attorney Eggers recommended that a public hearing be held. Council Member VonCanon motioned to call for a public hearing to extend the Sandwich Board Sign Ordinance for six months (December 12 through May 12). Council Member Tufts seconded the motion. All were in favor. No one opposed.

### **Historic Banner Elk School Project Updates**

Mr. Owen reported that the Ad Hoc Committee set up to spearhead events held on the school property (i.e. arts and craft shows) will hold its first meeting on Tuesday, November 15<sup>th</sup> at 6:00 p.m.

Mr. Owen stated that the Chamber of Commerce and Tony Hunter will be in charge of setting up the Christmas tree on the school property. There will be several events taking place December 2<sup>nd</sup> and 3<sup>rd</sup>: the tree lighting, Christmas movie in the school gym, parade, 5K run, train ride, lighting in the park, etc.

Mr. Owen noted that on November 6<sup>th</sup>, the Humane Society will hold a fund raiser at the school.

Mr. Owen stated that the Greater Banner Elk Heritage Foundation is still working on the process of getting the school on the historic register. The consultant they hired is helping with the application and all the paperwork. It is an ongoing project.

Council Member Bolick reported that no decision has been made as far as the location of next year's golf tournament. Once the location has been established, the date will then be set. He noted that the name will be the Historic Banner Elk School Golf Classic followed by a three-tier sponsorship (a main sponsor and two major sponsors).

Council Member Bolick reported that the matching grant's current balance is \$20,343. We still need to raise close to \$5,000 of new money before the end of the year to qualify for this matching grant.

## **Manager's Update**

Mr. Owen reported that included in Council Member's packet are the police report, planning, zoning, tax collection report and the financial report for 4 months ending 10/31/16. Also attached is a draft copy of the Planning Board Meeting minutes of Monday, November 7, 2016 and the September 2016 High Country ABC Board Meeting Minutes. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen noted that in regards to the Millpond Sidewalk Extension Project, the draft plans were reviewed with the property owners involved and they had a few changes that they wanted the Town to make. The changes weren't major, but good ideas (i.e. driveway width, retaining wall), so the engineer is currently working on the revisions to the plans.

Mr. Owen reported that Council is aware of several water leaks in the Town's system. One has been identified at the intersection of the Millpond and the creek crossing. He noted that he has talked with David Poore about it. Because of the age of the line and the sidewalk extension at the Millpond, the Town is considering replacing the line because a sidewalk will run on top of it and it will reduce future problems. Mr. Poore is working on design drawings so that the Town can put it out to bid and receive cost estimates for the work. Mr. Owen noted that once the prices come in, he will bring it to Council as part of the sidewalk extension project. There are several reasons for this: (1) the Town has a problem to fix (2) fixing it will eliminate future problems and (3) there will be a sidewalk on top of it and (4) if we do the water work, it will form a foundation for the sidewalk work. Time will be an issue. The Town is looking at starting project in the spring.

Mr. Owen reported that Derek Goddard with Blue Ridge Environmental is working on the plans for the stormwater vault project. He has done extensive surveying in the area and again it will be a spring project.

Mr. Owen noted that the Stormwater Mapping Project, which was approved this past summer, will begin in January. The High Country Council of Governments (CCOG) will be mapping the Town's stormwater system.

Mr. Owen reported that in regards to the Corner on Main Project, shrubbery has been planted along the property line bordering the Village Shoppes which was paid for by a donor. He noted that the donor is also committed to the clock tower and the Town is currently working on the design for the rock tower and a clock company has been contacted for the clock itself. Mr. Owen stated that once the Town receives pricing for the clock tower to the donor's satisfaction, construction will begin and hopefully looking at a dedication in late May, early June 2017.

Mr. Owen noted that as everyone is aware, Avery County has moved into an abnormally drought condition. He stated that currently the Town's wells are not showing any signs of stress. Mr. Owen reported that the Town does have a Water Shortage Ordinance and that the State has a Water Shortage Response Plan on file for the Town. The two documents do not align perfectly, so the Staff will be working on any revisions so that they will be similar in structure. Based on the current plan on file with the State, we should be on voluntary water restrictions at this time. He suggested to Council that we acknowledge this by making public that the Town is on voluntary water restriction. There are no fines associated with this, but the Town's citizens will

be made aware of the situation and will be asked to conserve water at this time. Mr. Owen noted that a message will go to everyone using our Code Red system and on the Town's web site.

Council Member Dunn thanked the Staff for replacing/repairing the Town's faulty streetlights.

At 6:46 p.m. Council Member Bolick motioned for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 6:51 p.m.

**Other Business**

Mayor Lyerly opened discussion regarding a Town Staff Christmas event and a Town Committee event, location and time for these events. Council Member expressed their opinions and options. A decision was made to have the Town Staff Christmas luncheon on Thursday, December 22, 2016. Council also decided to hold a Town Committee appreciation Christmas reception on Thursday, December 15, 2016 at 4:30 to be held in Town Hall. Staff will also be invited.

There being no further business, at 7:10 p.m. Council Member VonCanon motioned to adjourn the November 2016 Town Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

**Adjourn**

The Town Council meeting adjourned at 7:10 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: December 12, 2016